IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REV. APPLICATION NO.26 OF 2006

Hanumant Laxman Kamble .. Applicant

Versus

Balu Shankar Kasbe & Anr. .. Respondents

Mr.R.S.Kate for applicant

Mr.R.Y.Mirza, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 7th December 2006.

P.C.

. Heard Mr.Kate for applicant. Learned Counsel submits that the acquittal recorded by the Court below suffers from errors apparent on the face of record. The judgement and order is

perverse because all materials were laid before the trial court to support and prove the case that the accused has drawn salary for the month of June 2003 twice. The necessary documents were also produced from the records of the Maharashtra State Farming Corporation. In such circumstances the order of acquittal deserves to be set aside.

2. The Court below has taken note of the prosecution's case that the accused labourer was over paid salary for the month of June 2003. The amount is to the tune of Rs.422/-. The labourer has accepted the salary and being illiterate put his thumb impression. The case is that the thumb impression was later on disowned and that is how on the second occasion salary was paid. Both thumb impressions were forwarded for examination by finger print experts and opinion. Such an opinion was placed on record.

3. Learned Judge has clearly observed that

for proving the case of the Corporation, it was obliged to not just produce but prove the contents of necessary documents. It is recorded that the salary sheet itself is not produced and proved. When the case is that the salary for the month of June 2003 was over-drawn, the least that was expected from the prosecution was production and proof of this salary sheet for the relevant period. The basic document itself not being produced and proved, learned Judge could not have recorded the conviction on the basis of the fingerprint expert's opinion. Expert's opinion would have been of assistance in proving the thumb impression but the thumb impression itself is put on the salary sheet. The salary sheet being not produced and proved, the thumb impression as examined by the expert along with his opinion could not have advanced the case of the prosecution any further. Thus despite due and deligent as well as best efforts of the applicant, he could not succeed in proving the

case of salary being over-drawn by the labourer. Considering the nature of the charges, inability of the prosecution to produce the relevant record and documents this is not a fit case for interference in Revisional Jurisdiction of this Court. Application is summarily dismissed.

(S.C.Dharmadhikari, J)